

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

In the Matter of)	
)	
Review of the Section 251 Unbundling)	CC Docket No. 01-338
Obligations of Incumbent Local Exchange)	
Carriers)	
)	
Implementation of the Local Competition)	CC Docket No. 96-98
Provisions of the Telecommunications Act)	
of 1996)	
)	
Deployment of Wireline Services Offering)	CC Docket No. 98-147
Advanced Telecommunications Capability)	

**COMMENTS OF
EL PASO NETWORKS, LLC,
FPL FIBERNET, LLC, AND
MCLEODUSA TELECOMMUNICATIONS SERVICES, INC.**

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Dated: November 6, 2003

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El Paso Networks, LLC (“El Paso”), FPL FiberNet, LLC (“FiberNet”), and McLeodUSA Telecommunications Services, Inc. (“McLeodUSA” and together with El Paso and FiberNet, collectively, “Commenters”), by their undersigned attorneys, file these comments in support of the petitions for reconsideration filed by Nextel Communications, Inc. (“Nextel”), T-Mobile USA, Inc. (“T-Mobile”), the Cellular Telecommunications and Internet Association (“CTIA”), and AT&T Wireless Services, Inc. (“AWS” and together with Nextel, T-Mobile and CTIA, collectively “Petitioners”) in the above-captioned proceeding.¹ Commenters urge the Commission to reconsider the

¹ See Petition for Reconsideration of Nextel., dated October 2, 2003 (the “Nextel Petition”), Petition for Reconsideration of T-Mobile, dated October 2, 2003 (the “T-Mobile Petition”), Petition for Reconsideration or Clarification of CTIA, dated October 2, 2003 (the “CTIA Petition”) and Petition for Clarification of Reconsideration of AWS (the “AWS Petition”).

Triennial Review Order², in particular, the definition of loop under the Commission's rules to accord UNE status to the loops connecting wireless carrier cell sites to ILEC central offices.

I. SUMMARY

Commenters are competitive local exchange providers ("CLECs") providing wholesale and retail telecommunications services to numerous customers across the country. Among Commenters' wholesale customers are several competitive mobile radio service ("CMRS") providers, including Petitioners. The Triennial Review Order remained silent on whether ILEC facilities deployed to CMRS carrier cell sites are available as UNE loops. Commenters request that the Commission should now in reconsideration make that finding.

Classifying ILEC facilities deployed to CMRS providers cell sites as UNE loops is consistent with the UNE regime established in the Triennial Review order because (i) the facilities deployed to CMRS cell sites are network elements within the definition of the Act; (ii) services provided to CMRS providers are qualifying services; (iii) there is no technical difference to distinguish circuits to cell sites from UNE loops; and (iv) these facilities possess the same economic characteristics as UNE loops.

CLECs are impaired if they do not gain unbundled access to transmission facilities connecting to their CMRS customers' cell sites, because CLECs are unable to self-provide these facilities in an economic manner and there is no alternative to these facilities, other than the ILEC's ubiquitous network.

² See *Revision of Section 251 Unbundling Obligations of Incumbent Local Exchange Carriers, Report and Order and Order on Remand and Further Notice of Proposed Rulemaking*, CC Docket Nos. 01-338, 96-98, 98-147, FCC 03-36 (rel. August 21, 2003) (the "Triennial Review Order").

Commenters urge the Commission to clarify the definition of UNE loops to explicitly encompass provision of services to CMRS providers' cell sites. The Commission's failure to reconsider this definition would significantly impair CLECs to the detriment of competition.

II. BACKGROUND

As recognized by the Commission in this proceeding, competitive carriers are impaired without unbundled access to network elements, including loops, transport and dark fiber.³ In addition the Commission recognized that CMRS traffic is a qualifying service. Without access to ILEC network elements, CLECs would be unable to reach their customers or transport traffic. The fact that in some cases the customer is a CMRS provider makes absolutely no difference with respect to an impairment analysis.

CLECs such as El Paso filed comments and *ex parte* presentations regarding the application of the Commission's unbundling rules to ILEC facilities serving CMRS carrier cell sites.⁴ The Commission, however, ignored these filings and failed to consider the arguments raised in those comments in the Triennial Review Order. Thus, the Triennial Review Order remained silent on whether ILEC facilities deployed to CMRS carrier cell sites are available as UNE loops. The Commission should now in reconsideration make that finding for the reasons explained in more detail below.

³ The Commission made a detailed and thorough analysis of impairment in general and its applicability to each network element in particular. *See Triennial Review Order* at ¶¶ 61 et. seq.

⁴ *See e.g.*, Letter from Stephen Crawford, El Paso, to Marlene Dortch, Secretary, Federal Communications Commission, dated November 26, 2002, CC Docket Nos. 01-338, 96-98, 98-147 ("El Paso November 26, 2002 Letter") and Letter from Patrick Donovan and Joshua Bobeck, Counsel for El Paso, to Marlene Dortch, Secretary, Federal Communications Commission, dated December 20, 2002, CC Docket Nos. 01-338, 96-98, 98-147 ("El Paso December 20 Letter").

III. THERE IS NO LEGAL BASIS FOR THE COMMISSION TO DISTINGUISH BETWEEN UNE LOOPS AND ILEC FACILITIES DEPLOYED TO CMRS CARRIER CELL SITES

A. Facilities Deployed to CMRS Customers are Within the Definition of Network Element

As previously noted by El Paso,⁵ there can be little dispute that the facilities ILECs deploy to serve CMRS carriers are unbundled network elements. The definition of “network element” in the Act, and as implemented by the Commission, clearly encompasses the facilities ILECs deploy to provide CMRS carriers with the wireline components of their networks. The 1996 Act defines “network element” as “a facility or equipment used in the provision of telecommunications service.” ILEC copper, fiber and equipment connecting a central office to a cellular tower site, or a Mobile Telecommunications Switching Office (“MTSO”) are certainly facilities, and are plainly “used in the provision of a telecommunications service.”

B. Classifying ILEC Facilities Deployed to CMRS Carrier Cell Sites as UNE Loops is Consistent with the UNE Regime Established in the Triennial Review Order

1. Services Provided to CMRS Providers are Qualifying Services as Defined by the Triennial Review Order

In the Triennial Review Order the Commission found that in order to gain access to UNEs, carriers must provide “qualifying” services using the UNE to which they wish to access. The Commission defined qualifying as “those telecommunications services offered by requesting carriers in competition with those telecommunications services that have been traditionally the exclusive or primary domain of incumbent LECs.”⁶

⁵ See El Paso December 20 Letter at 3.

⁶ Triennial Review Order at ¶ 135.

There is no doubt that provision of local exchange services, such as those provided by Commenters are qualifying services.⁷ In addition, the Commission clarified that CMRS providers provide services that are used to compete against telecommunications services traditionally within the exclusive or primary domain of incumbent LECs, and thus CMRS providers qualify for access to UNEs.⁸

2. The Commission's Classification of Services should be Technology Neutral

As noted by Petitioners,⁹ a loop definition that includes the transmission facilities between the ILEC's central office and the CMRS carrier cell site would advance the Commission's goal of greater intermodal competition and its closely related policy of technological neutrality. The Commission's UNE rules should not permit any bias against any technology used to compete with ILECs. As noted in the Triennial Review Order, "the Act expresses no preference for the technology that carriers should use to compete with the incumbent LECs".¹⁰

C. There is No Technical Basis to Distinguish Circuits to Cell Sites from UNE Loops

1. There are No Technical Differences Between Circuits Connecting Cell Sites and Circuits Connecting other Locations

There is no technical difference between a circuit (whether a T1, DS1, DS3, etc.) that serves a cell site and a circuit that serves a residence or business location. A T1, a

⁷ *Id.*

⁸ Triennial Review Order at ¶ 140.

⁹ See Nextel Petition at 8; T-Mobile Petition at 9.

¹⁰ Triennial Review Order at ¶ 97; *see also id.* ¶ 369 (finding that a "technology-neutral approach best comports with the statute [and] suits the development of intermodal competition").

DS1 or a DS3 is a T1, a DS1 or a DS3 regardless of where it is delivered. .¹¹ The technical specifications of the interface are the same in a T1, DS1 or DS3 delivered to a cell site or a T1, DS1 or DS3 delivered to a residence or business or any other point in the network where the ILEC deploys facilities from a central office to an address within a specific boundary that is not another central office. This would include locations such as pay phones or ATM machines.

2. Many Cell Sites are Located at Multi Tenant Buildings and both UNE Loops and Cell Site Loops Terminate at the Exact Same Point in the Building

In several instances CMRS cell sites are located in multiunit buildings where CMRS providers lease certain space in the roof or other structures of buildings which are otherwise occupied by other businesses, some of which are served by CLECs. Under the Triennial Review Order, CLECs are entitled to UNE loops and subloops to service such customers.¹² As noted by the Commission, the barriers faced by competitive carriers in accessing customers in multiunit buildings extend to all customers residing in such premises.¹³ Moreover, the use of unbundled loops and subloops to access customers in multiunit premises is also not limited by the type of or capacity of the loop the requesting carrier will provide.

As noted in Section II.C.1. above, given that there is no technical difference between the loops requested by a CMRS provider and the loops requested by any other customer, and that the Commission has found that CLECs would be impaired if they are unable to serve *all* customers located in multiunit buildings, the Commission in

¹¹ See Joint Declaration of Robert Passmore and Francisco Maella, dated November 6, 2003, attached hereto as Exhibit A (the “Passmore-Maella Declaration”) at ¶ 24.

¹² Triennial Review Order at ¶ 347.

¹³ *Id.*

reconsideration should find that loops to CMRS customers located in multiunit buildings should be afforded UNE treatment.¹⁴

D. Facilities Deployed to CMRS Carrier Cell Sites Possess the Same Economic Characteristics as UNE Loops

1. The Commission's Impairment Analysis Regarding UNE Loops

In the Triennial Review Order the Commission focused on specific market and customer characteristics to undertake a granular inquiry to determine where loop impairment exists. As a general proposition, the Commission found that competitive LECs should only gain access to unbundled loops where they are impaired. The standard for impairment adopted by the Commission was "when competitive carriers cannot economically self-provision loops and competitive alternatives do not exist."¹⁵

As described in detail below, CLECs are impaired if they do not gain unbundled access to transmission facilities connecting to their CMRS customers' cell sites, because CLECs are unable to self-provide these facilities in an economic manner and there is no alternative to these facilities, other than the ILEC's ubiquitous network.

2. **Economic Characteristics of Loops to Cell Sites**

a. **Wireless Carriers Rely on Wireline Facilities to Connect their Cell Sites**

Wireless carrier networks rely extensively on wireline facilities to transport their telecommunications traffic because, for various economic and technical reasons, most CMRS networks are only wireless in the last mile connection to the mobile phone. As noted by Petitioners in previous filings in this docket, wireless carrier networks rely

¹⁴ See Passmore-Maella Declaration at ¶¶ 16-18.

¹⁵ Triennial Review Order at ¶ 197.

extensively on wireline facilities to transport their telecommunications traffic because, most CMRS networks are only a wireless call from a nearby tower to the end-user's handset.¹⁶ The wireless portion of a call is connected to wireline facilities at "cell sites," that are located by the hundreds throughout a region. Each cell site is connected to the cellular provider's switch (*i.e.*, MTSO) usually through the use of DS¹⁷T1 channelized facilities. These cell sites usually contain an assembly of transmitter/receiver equipment through which radio links are established between the wireless system and the wireless units of the carrier's customers. This is actually similar to how a cordless telephone works within the home, only the signal strength is greater from a cell site and allows a further distance from the wireline base station, than from the plugged in telephone in the home. The CMRS carrier typically connects its MTSO to each of these cell sites by going through the ILEC central office and transporting the signal to the MTSO. Therefore, an entrance facility is used from the MTSO to the ILEC central office since the MTSO is the location of the CMRS carrier's switch. Since the MTSO is the entrance facility portion of the of the transmission path, the facility to the cell site is the loop facility.

CMRS carriers generally establish several MTSOs in each metropolitan area where the actual switching of the transmission occurs. At the MTSO, the wireless carrier is interconnected to the ILEC and/or other local service providers to send and receive telecommunications traffic.¹⁸ Every cell site needs transport back to the MTSO for the telecommunications service to be switched to its final destination. In addition,

¹⁶ See Petition For Declaratory Ruling, AT&T Wireless Services, Inc. and VoiceStream Wireless, Corp., CC Docket No. 96-98, filed November 19, 2002, p. 14.

¹⁷ See Passmore-Maella Declaration at ¶ 12.

¹⁸ See Passmore-Maella Declaration at ¶ 13.

when a wireline call is made to a cell phone, the ILEC network is used to transport the call from the MTSO's switch, over entrance facilities to the ILEC's central office to reach the loop facility that is terminated at a cell site near the cellular customer. CMRS carriers also use wireline transport between ILEC central offices to aggregate the hundreds of loops for transport back to the MTSO. The MTSO is then the switching element in this network design, not the cell site.¹⁹ The cell site much more resembles the wireless base station that most of us have in our homes today.

b. No alternative to Wireline Facilities

CLECs, such as Commenters, seek to purchase UNEs to provide telecommunications services to CMRS providers and other carriers. These facilities are necessary to enable the CMRS providers to connect their MTSOs to subtending cell sites or base stations. Petitioners have clearly outlined the evident differences between wireline and wireless networks and that these facilities are a critical component of their wireless networks.²⁰

As noted by Nextel and T-Mobile, in many instances, the ILEC's ubiquitous network, makes the ILEC the primary or the only sources for facilities to a CMRS providers' cell sites and switches, and the ILEC's refusal to provide such facilities as UNEs significantly increases the cost of the CMRS providers' networks and impedes their ability to compete.²¹ In numerous markets there is virtually no alternative to the

¹⁹ *Id.*

²⁰ *See e.g.*, AWS Petition at 5.

²¹ *See* Nextel Petition at 6; Comments Voicestream Wireless at 15 (filed April 5, 2002), noting that 96% of circuits to cell sites are provisioned by ILECS.

ILEC facilities that serve cell sites, leaving CMRS carriers as a captive audience for the ILECs.²²

c. **Self Deployment is Not Economically Justifiable**

Given the fact that the architecture of a wireless network is usually ninety percent (90%) wireline, and that there are hundreds of cell sites in each major metropolitan CMRS network, neither CLECs nor CMRS providers are able to self-deploy their own transmission facilities to cell sites as the cost is prohibitive.²³

i. **CMRS Carriers Have Deployed Hundreds of Cell Sites per MSA**

As previously noted, the wireless portion of a call is connected to wireline facilities at “cell sites,” that are located by the hundreds throughout a metropolitan service area (“MSA”). For example, wireless coverage of a large MSA, such as Dallas-Fort Worth or Houston, by a single CMRS carrier requires approximately 400 cell sites each, and coverage of smaller MSAs, such as San Antonio or Austin, require approximately 200 cell sites each per carrier.²⁴

ii. **Distance from Central Office for Long Copper Loops to Remote Locations**

In the majority of cases, CMRS carrier cell site locations are generally spread across a wide geographic area. If the CMRS carrier had to self provision to all its cell sites, some of the loops might be too far away from the MTSO to allow the CMRS traffic to transport efficiently. This would be especially true in rural highways that connect

²² See Passmore-Maella Declaration at ¶ 23.

²³ See Nextel Reply Comments at 6 (filed July 17, 2002); and Comments of Sprint at 49 (filed April 5, 2002).

²⁴ See Passmore-Maella Declaration at ¶ 12.

cities where travelers often require to use their cellular telephones. By contrast, the ILEC has central offices located in close proximity to all of these rural or out of the way locations which allow the CMRS carrier access to all points in its network. It would be financially burdensome for a CLEC (or a CMRS carrier) to duplicate the entire ILEC network by deploying its own loop facilities.²⁵

iii. Cell Sites are Different than CLEC Switches

Unlike Carrier switches discussed in the unbundled dedicated transport definition,²⁶ CMRS carriers cannot choose to locate cell sites close to ILEC wire centers to control costs; rather they must be located where customer demand is located in order to provide ubiquitous coverage. Examples of this are the many cell sites that dot the highways and large residential corridors of cities across America.

3. CLECs are Impaired in Providing Service Regardless of the Commission's Finding regarding CMRS Carriers

There can be no dispute that regardless of whether CMRS carriers are impaired, wholesale CLECs are impaired without unbundled access to facilities to their customers' premises.

The Act provides that ILECs must provide unbundled access to network elements to "any requesting telecommunications carrier for provision of a telecommunications service."²⁷ Wholesale carriers are telecommunications carriers and the services they provide are telecommunications services. Competitive wholesale carriers promote the goals of the Act by enabling other carriers to provide competitive services to retail customers.

²⁵ *Id.* at ¶¶ 19-22.

²⁶ Triennial Review Order at ¶ 365.

²⁷ 47 U.S.C. Section 251(c)(3).

The Commission must foster the development of a competitive wholesale market for the wireline services on which CMRS carriers rely to provide service to American consumers. As the Commission is aware, a competitive wholesale market is critical to the proper functioning of a competitive retail market.

Wireless carriers are currently forced to connect their cell sites to their MTSOs by paying ILECs exorbitant special access rates for those facilities. CLECs who are facilities-based carriers that have deployed their own networks, provisioning systems, platforms and transport mechanisms between the MTSOs and the ILEC's central offices can offer the CMRS carriers an affordable, reliable and cost effective alternative transport option if given the opportunity to utilize the existing loop facilities to a cell site as a UNE. This will allow the CLEC to provide the kind of competition that will permit CMRS wireless carriers to avoid ILEC's high-cost choice in procuring loop facilities. This will occur only if these carriers are permitted to compete. The Commission should not put competition on hold for these facilities by permitting ILECs to avoid their unbundling obligations.

The Commission in reconsideration should revisit the definition of UNE loops, so as not allow ILECs to avoid their statutory obligations to provide unbundled access to facilities that serve CMRS carrier locations. Facilities serving these carrier locations must be available as UNE loops.

IV. THE COMMISSION SHOULD AFFORD UNE STATUS TO LOOPS CONNECTING TO CMRS PROVIDERS' CELL SITES

By limiting the definition of local loop element to the transmission facility between the distribution frame in an ILEC central office and the demarcation point at the end-user customer premise, the Commission is limiting CLECs' ability to provide

services to some of their customers, such as, CMRS providers, pay phone service providers and other locations (*e.g.*, ATM machines). For the wholesale CLEC, the cell site is the end-customer premise. Thus, the central office cell site circuit is the loop, and like every other loop should be available as a UNE without any distinction.

The Commission in reconsideration should clarify the definition of UNE loops to explicitly encompass provision of services to CMRS providers' cell sites. In particular, as noted by all Petitioners²⁸ the Commission should clarify its definition of UNE loops to uncontrovertibly include CMRS cell sites as loop termination points. In reconsideration, the Commission should amend its current loop definition to include transmission facilities between the ILEC's central office and a CMRS provider's cell site. Commenters strongly support the amendment to this definition contained in § 51.319(a) of the Commission's rules, as proposed by T-Mobile.²⁹

The Commission's failure to reconsider this definition would significantly impair CLECs' ability to provide services to their current and prospective CMRS customers, to the detriment of competition and the benefit of incumbent local exchange carriers.

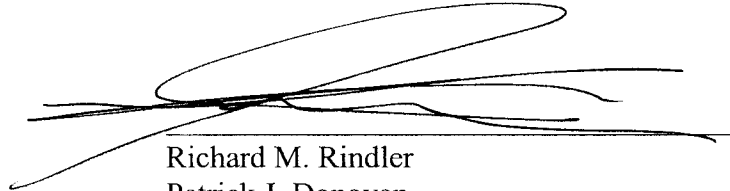
²⁸ See AWS Petition at 8, Nextel Petition at 7 and T-Mobile Petition at 9-13.

²⁹ "[T]he local loop network element is defined as a transmission facility between a distribution frame (or its equivalent) in an incumbent ILEC central office and (1) a loop demarcation point an end-user customer premise, or (2) a CMRS carrier's base station or cell site". T-Mobile Petition at 13.

V. CONCLUSION

For the foregoing reasons, the Commission should clarify that CLECs and CMRS providers may access the link between CMRS cell sites and the ILEC central office and grant all other relief requested by Nextel, T-Mobile, CTIA and AWS.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Richard M. Rindler', is written over a horizontal line.

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Telecommunications Services, Inc.

Dated: November 6, 2003

Exhibit A

Joint Declaration of Robert Passmore and Francisco Maella

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**JOINT DECLARATION OF
ROBERT PASSMORE AND FRANCISCO MAELLA**

The undersigned, being duly sworn on oath, does say and depose as follows:

1. My name is Robert Passmore. I am employed at El Paso Global Networks, LLC, 1001 N. Louisiana, Houston, TX 77002 ("El Paso") as Manager – Technical Support. I have held this position since March 2001.

2. My name is Francisco Maella. I am Senior Vice President, Network and Technology, at El Paso Global Networks ("El Paso"), 1001 N. Louisiana, Houston, TX 77002.

3. El Paso is a combined facilities-based and UNE purchasing CLEC that provides high-speed telecommunications transport services to telecommunications carriers and high-volume enterprise business users. To serve the needs of these customers, El Paso has deployed a state of the art transport network in five cities in Texas: Austin, San Antonio, Dallas, Houston and Fort Worth. El Paso has now completed its transport network, has collocated in most of SBC's central offices in each of these five cities, and has connected these offices using UNE dark fiber obtained from SBC. El Paso then connects its Point of Presence ("POP") or Hub to one or two central offices in each market using its own fiber. El Paso has also deployed significant fiber

assets thorough construction, IRU agreements and/or acquisitions in each of the five markets in Texas. El Paso is now focused on attracting customers to its transport network.

4. Included in El Paso's customer base are wireless or CMRS carriers such as the Petitioners AT&T Wireless, T-Mobile USA and Nextel. These carriers, in addition to needing transport between SBC central offices also need to connect their cell sites to their Mobile Termination Switching Offices ("MTSO") in order to route wireless traffic to subscribers and to the PSTN. In addition, the connection between the cell site and the MTSO allows the wireless carrier to hand off calls to the appropriate cell sites as subscribers move while using their mobile handset and service.

5. The purpose of this Joint Declaration is to describe El Paso's experience in ordering and using ILEC UNE loops to serve wireless carriers cell sites and to explain why El Paso, as a wholesale CLEC, is unable to obtain a wholesale alternative to the ILEC facilities or self provision its own such facilities to serve CMRS carrier cell sites.

6. Pursuant to an Interim Ruling by the Texas PUC, El Paso has obtained circuits to cell sites as UNE loops and integrated those elements with its own transport network and facilities in providing CMRS carriers a finished telecommunications service in competition with ILEC special access services. To reach these cell sites efficiently, El Paso must have access to UNEs between El Paso's collocation arrangements in SBC central offices and the wireless carrier customer's premises at the cell site. Because these circuits are generally DS1s El Paso cannot economically self-provision such facilities nor are there any wholesale alternatives available on the open marketplace that do not use the ILECs facilities. Thus, for El Paso to continue providing this service in competition with SBC, unfettered access to SBC UNE loops to cell sites

are of the utmost importance.

I. MR. PASSMORE'S BACKGROUND

7. Prior to joining El Paso, I was employed at Southwestern Bell Telephone, now known as SBC Texas ("SBC"), where I was employed until moving to El Paso. From 1972 to 1988, I worked for SBC as a Cable Splicing Supervisor where I supervised fiber optic splicing crews in Houston. From 1988 until my retirement from SBC in November 2000, I held various positions in marketing, largely providing technical support to SBC's sales organization in Major Markets.

8. In my current position at El Paso I support the Sales Force in a technical support capacity. I submit Dark Fiber Check Requests to the El Paso Fiber Procurement Group in response to a Customer Service Request. I also review SBC's Plant Layout Records to determine fiber availability to a location when a "No Facility" response is received from SBC.

II. MR. MAELLA'S BACKGROUND

9. Prior to joining El Paso, I managed the Network Architecture and Design at Valiant Networks, Inc. where I was responsible for architecture, supplier selection and design of optical, data, and voice networks for carriers. Before that, I was employed by Williams Communications Group where my last position was Chief Technologist of Data and Converged Technologies where I was responsible for the design, supplier selection, and deployment of ATM, Frame Relay, IP, and SONET Mesh technologies. Prior to joining Williams I was employed by MCI WorldCom where I held engineering positions responsible for the supplier selection and deployment of voice, data, and transport technologies.

10. Currently at El Paso, my primary responsibility has been to manage the Product

Development, Sales Engineering, Network Planning, Network Engineering, Network Implementation, Network Operations and Provisioning for El Paso.

III. DESCRIPTION OF WIRELINE PORTION OF WIRELESS NETWORK

11. Wireless Carriers rely heavily on wireline facilities to transport the telecommunications services that they provide to their customers. El Paso has deployed a ubiquitous, diversely-routed network in five major cities in Texas. This network offers a competitive choice for transport of telecommunication services. Without this competitive choice, the wireless carriers, for the most part, must order telecommunications services from SBC to transport telecommunications traffic from cell sites to their respective MTSOs, as SBC is the only company that typically has connectivity to the widely-scattered cell sites.

12. Wireless carrier networks rely extensively on wireline facilities to transport their telecommunications traffic because, for various economic and technical reasons, most CMRS networks are only wireless in the connection to the mobile phone. The wireless portion of a call is connected to wireline facilities at "cell sites," that are located by the hundreds (per carrier) throughout a region. Each cell site is connected to the cellular provider's switch, (*i.e.*, MTSO), usually through the use of DS-1 channelized facilities. For example, wireless coverage of the Dallas-Fort Worth and Houston metropolitan areas by a single carrier requires approximately 400 cell sites each, and San Antonio and Austin each require approximately 200 cell sites. These cell sites usually contain an assembly of transmitter/receiver equipment through which radio links are established between the wireless system and the wireless units of the carrier's customers. The CMRS carrier typically connects its MTSO to each of these cell sites by going through the ILEC

central office and transporting the signal to the MTSO.

13. CMRS carriers generally establish several MTSOs in each metropolitan area where the actual switching of the transmission occurs. At the MTSO, the wireless carrier is interconnected to the ILEC and/or other local service providers to send and receive telecommunications traffic. Every cell site needs transport back to the MTSO for the telecommunications service to terminate at its destination.

14. The critical wireline connection is the facility between the cell site and the MTSO. This connection is critical because the equipment at the cell site and MTSO work together seamlessly to keep callers connected to the network. The equipment at the MTSO performs the switching and routing functions, gives access to routing databases, interconnects to wireline networks to send and receive calls, monitors the signal received by the equipment at the cell site and moves calls from one cell to another depending on the location of the handset that the consumer is using to make or receive the call. Although users of cellular phones consider the service a “wireless” service, in reality a major portion of the transmission is through wireline facilities.

15. Cell sites are placed based on population distribution and use requirements. Examples of this are the many cell sites that dot the highways and large residential corridors of Texas.

Carriers can not choose to locate cell sites near ILEC end offices to minimize the cost of deploying facilities connecting the end offices to the cell site. Instead the location of the cell sites is solely a function of the carrier’s need to serve its customers. In other words, the carriers need to deploy cell sites in order to maximize the coverage of their network and to place cells where traffic patterns demand.

16. Although some cell sites are placed on stand alone towers in open fields or water towers,

many of the cell sites where El Paso provisions its services to are located on the roofs of multi-tenant office buildings, high-rise apartment buildings, downtown office buildings, malls, shopping centers such as strip malls, amusement parks, and business parks and shopping centers. A loop to a cell site at such a location, such as shopping center would not be provisioned differently than a loop to a retail customer in that same building.

17. Just like with loops to business and residential subscribers, there is only one telecommunications provider with an in place ubiquitous network to provide facilities to all these locations. Some cell sites, in low traffic areas, require only one DS-1 connection to the MTSO. Since the ILEC already has facilities in or near virtually all areas of its domain it may easily and economically provision to these sites, just as it would with other commercial and residential subscribers.

18. The ILEC can easily provision loops to cell sites because it already has a network in place and simply extends its existing network from the nearest point to the location of the cell site. For cell sites located in office parks and shopping center and other multi tenant buildings, the ILEC already has a network in place ready to serve the cell site without extending its network. This network is the exact same network it uses to provide retail telecommunications services to business and residences at that location. It is also the same network and facilities the ILEC would use to provision UNE loops to CLECs providing retail telecommunications services to residents and business in those multi-tenant buildings.

IV. EL PASO CANNOT EFFICIENTLY SELF PROVISION ITS OWN LOOPS TO CMRS CARRIER CELL SITES

19. Building copper loops to replicate the ILEC embedded network of copper loops serving

cell sites in a particular Metropolitan Service Area (“MSA”) would be prohibitively expensive. El Paso has previously estimated to the Commission that it would cost \$100,000 to 300,000 per mile to construct a fiber loop.¹ The cost of constructing a copper loop is similar except for the slight difference in price between copper cable and fiber optic cable. However, the remaining costs for trenching, installing cable and conduit, obtaining rights of way and building access that are present for fiber loop construction are present for copper loop construction. Thus, the Commission correctly concluded in the Triennial Review that “for DS1 loops, overbuilding to customers that require services over these facilities generally does not present sufficient opportunity for competitors to recover their costs and therefore may not be economically feasible.”²

20. Even if building copper loops to cell sites were economically feasible, there are other barriers to self-deployment. To the extent the cell site is located at a multi tenant building or other premises not owned by the CMRS carrier, El Paso would have to obtain access rights to enter the building with its cable and would have to convince its customers to agree to the resulting delays associated with self deployment of alternative loop facilities.

21. It would generally take El Paso nine months or more to construct its own facilities to a typical cell site location, and even longer for cell sites at remote locations. El Paso would need to negotiate and secure access to rights of way and obtain building and zoning permits provided that there is no current moratorium. Further, to the extent these obstacles can be overcome, the revenue regenerate from each particular DS1 circuit to a cell site would not justify the cost and time commitment to deploy an alternate copper loop to each cell site.

¹ El Paso Triennial Review Comments at p. 21; *See also Triennial Review Order* at ¶ 371 n.1137.

22. In addition, deploying fiber to most if not all cell sites is not economically feasible either. In most instances the carrier only requires a single DS-1 loop to each cell site. Even if you accept a DS-3 as the line where self-deployment is economically feasible it is El Paso's experience that CMRS carriers do not require a DS-3 worth of capacity to their cell sites. Thus, the revenue opportunity for each cell site is not worth the time and cost to deploy the facilities.

V. THERE ARE NO WHOLESALE ALTERNATIVES ON THE MARKET

23. For the reasons stated above, wireless carriers largely rely on ILEC special access because the cost to self deploy is prohibitive. Thus, wholesale carriers such as El Paso have not deployed alternative facilities to wireless carrier cell site and are unlikely to do so in the foreseeable future.

VI. THERE IS NO TECHNICAL DISTINCTION BETWEEN LOOPS TO CELL SITES AND UNE LOOPS

24. There is no technical difference between a DS-1 loop that serves a cell site and a DS-1 loop that serves a residence or business location. A DS-1 is a DS-1 regardless of where it is delivered. The technical specifications of the interface are the same in a DS-1 delivered to a cell site or a DS-1 delivered to a residence or business.

25. Based on my past experience as a splicing supervisor and in technical sales support for SBC, the loop facility is the same whether deployed to a wireless carrier customer cell site or to an ordinary business or residential premises. In fact, when I was at SBC, all facilities that left the SBC central office were termed "loop facilities" as long as they terminated to an address that was not another SBC central office. If the terminating address was another SBC central office, the facility was considered an "interoffice facility". Only by connecting the facility to other network

² *Triennial Review Order* ¶ 298 n. 859.

elements was a “service” provided to a customer.

26. There is, for example no difference between a loop that terminates at the demarcation point in the basement of a multi-tenant building and a cell site. In each case, there is an intermediate connection between the termination point at the demarcation and the customer’s equipment used to originate or terminate telecommunications traffic. In the case of the multi-tenant building, that intermediate connection is inside wire that the customer owns between the telephone closet and the customer’s telephone. In the wireless world, that intermediate connection between the cell site and the mobile handset is made using radio waves rather than inside wire.

27. In most instances, particularly where the cell site is located in a multi-tenant building or similar location, the demarcation point for the cell site loop is identical to other loops serving other customers in that building. As described above, the SBC owned loop will terminate in a telecom closet in the basement or specific floor and inside wire owned and controlled by the customer (and sometimes the ILEC) will run from the demarcation point to the cell site equipment just as it would run to residential or business customer’s telephones or other customer provided equipment (“CPE”).

VII. LOOPS TO CELL SITES ARE COMPARABLE TO UNE LOOPS TO RETAIL CUSTOMERS

28. El Paso’s use of ILEC UNE loops to cell sites demonstrates that there is no meaningful distinction between UNE loops to retail customers and loops to cell sites. For example, in the Dallas area El Paso has constructed an OC-48 ring between a wireless carrier POP and El Paso’s POP. Currently the wireless carrier customer’s traffic rides an El Paso OC-12 that El Paso

multiplexes on its own facilities at its POP into separate DS3 s. The wireless carrier customer's traffic is then aggregated onto these DS3 s originating from multiple DS-1 s at cell sites throughout the Dallas metropolitan area. El Paso generally carries traffic from the cell site to El Paso's nearest collocation arrangement, where the traffic will ride El Paso's transport network back to El Paso's POP.

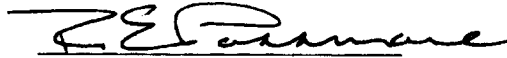
29. Although, El Paso utilized a DS-1 UNE loop to the wireless carrier cell site, the service that El Paso provides the wireless carrier customer includes not only the very small portion of the circuit that utilizes the UNE loop but also a robust El Paso backbone transport route that aggregates traffic throughout Dallas MSA to finally ride a redundant El Paso designed and provisioned OC-48 ring. El Paso is in the business of giving its customers an alternative choice of aggregation and transport of telecommunication traffic but needs access to the "last mile" to reach its broad customer base, including its wireless carrier's cell sites.

30. We declare that the foregoing is true and correct to the best of our knowledge.

31. Declarants sayeth no more.

El Paso Networks, LLC
Declaration of Robert Passmore and Francisco Maella
CC Dockets 01-338, 96-98, 98-147
November 6, 2003

Executed this 6th day of November 2003.



Robert Passmore



Francisco Maella

El Paso Global Networks

I, Ulises R. Pin, hereby certify that on this 6th day of November, 2003, the foregoing Comments of El Paso Networks, LLC, FPL FiberNet, LLC and McLeodUSA Telecommunications Services, Inc., was filed electronically on the Commission's ECFS in accordance with the Commission's rules and copies were served by email or first class mail on the following:

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